

Remember Guantanamo: Obama doesn't want you to

by Nat Hentoff, Aspen Daily News Columnist
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George W. Bush and Dick Cheney's legacy of our military-run prison at Guantanamo Bay, Cuba — long regarded globally as a caricature of America's prideful rule of law — is being increasingly expanded by President Barack Obama as his administration hides what's going on there, from international law as well as ours.

From an Aug. 20 Reuters report: "The al Qaeda suspects who were subjected to so-called harsh interrogation techniques, and the lawyers charged with defending them at the Guantanamo Bay military tribunals, are not allowed to talk about the treatment they consider torture" ("Insight: At Guantanamo tribunals, don't mention the 'T' word," Jane Sutton and Josh Meyer, reuters.com).

In response, Hina Shamsi, director of the American Civil Liberties Union's National Security Project, assuming that this is a United States — not an Iranian — tribunal, tells Reuters: "The question here is: Can the government subject people to torture and abuse and then prevent them from talking about it?"

Bear in mind, notes the Reuters story: "CIA agents have written books about (the interrogation techniques). Former President George W. Bush has explained why he thought it was necessary and legal."

Bush claimed, however, that torture was never involved. An especially penetrating refutation to his claim is the thoroughly documented "Administration of Torture" (including at Guantanamo), authored by the ACLU's Jameel Jaffer and Amrit Singh, and published by Columbia University Press. Included are pages of official documents — with chilling detainee autopsy reports among them.

A defense lawyer at Guantanamo once told me that at his first meeting with his possible client, the prisoner said: "But what are you doing here? There is no law here."

The Reuters report shows that this prisoner was right on the mark: "Security rules (at Guantanamo) restrict not only what can be made public but also what the lawyers can talk about with their clients."

Huh? When appearing before an American tribunal?

What this actually means, says chief prosecutor, Brig. Gen. Mark Martins, is: “What (the lawyers) can’t do is take a document that may have classified information related to sources and methods (of interrogation) and — unless it is cleared as disclosable to the client — they can’t show them that document.”

That’s why the lawyers for the high-level defendants charged with the large-scale 9/11 murders “have refused to send legal mail to their clients until prison camp inspectors agree to stop reading it.”

Who reviews this legal mail and has the power to block it?

According to the Reuters story, “The review teams are made up of Pentagon lawyers, translators and former intelligence officers — people from the same agencies that detained and interrogated the defendants and are now prosecuting them.”

The very day after 9/11, President George W. Bush assured us and the rest of the world: “We will not allow this enemy to win the war by changing our way of life or restricting our freedoms.”

But the values of these American defense lawyers at Guantanamo, as they represent their imprisoned clients, are being violated by their president and Justice Department, as Reuters reports:

“The lawyers contend that submitting case-related documents for screening would force them to illegally disclose trial strategy, violating the defendant’s right to a fair trial.”

And dig this: “They said it was also an ethical violation that could put their law licenses in jeopardy.”

Where could that happen? In the “new normal” United States, where Bush, Cheney and Obama — definers of what is a “fair trial” at Guantanamo — have scorned the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, signed by President Ronald Reagan for the United States in 1988.

As the convention states, parties must “take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction ... any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings.”

Guantanamo is clearly under our jurisdiction. And since the international covenant applies to all (imprisoned), regardless of citizenship, the United States has continued to violate international law there because of its past practices and

its multiple ways of denying fair trials to defendants currently before military tribunals.

Furthermore, none of this pain, suffering and degradation can be justified by “an order from a superior officer or a public authority.”

Therefore, the higher-ups themselves are violating international law and United States law, here, as well.

But neither George W. Bush nor Barack Obama, themselves potential defendants, has made the slightest attempt to bring charges against anyone involved in these brazen crimes against defendants at Guantanamo.

By now, there is hardly any glimmer of shame among prosecutors and other American perpetrators of these crimes at Guantanamo. As Reuters also reminds us: “Some details of the program, including waterboarding, mock executions and sleep deprivation, have already been disclosed by Bush and the CIA itself.”

If you're waiting for Mitt Romney and Paul Ryan to consider an independent investigating commission, don't hold your breath. That could be a very painful wait. So far, in this regard, there is no effective law here concerning past or present crimes against humanity at Guantanamo.

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